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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,116	09/22/2003	Kraig A. Kirschner	7234-117/10311003	7648
167	7590	06/16/2005	EXAMINER	
FULBRIGHT AND JAWORSKI L L P			LE, TAN	
PATENT DOCKETING 29TH FLOOR			ART UNIT	
865 SOUTH FIGUEROA STREET			PAPER NUMBER	
LOS ANGELES, CA 900172576			3632	

DATE MAILED: 06/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/668,116

Applicant(s)

KIRSCHNER, KRAIG A.

Examiner

Tan Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1/02/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This is the first office action for serial number 10/668,116. This application contains 15 claims numbered 1-15.
2. The preliminary amendment filed 4/08/04 has been entered.
3. The IDS filed January 02, 2004 listed under "Other Documents" on the PTO-1449 has been reviewed and considered.
3. The IDS filed January 02, 2004 listed under U.S. and Foreign patents has not been considered because Applicant fails to provide document numbers as required under 37 CFR 1.97, 1.98 and MPEP § 609. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).
4. The use of "CPVC" has been noted in this application. Applicant should spell out what "CPVC" stands for in the specification.
5. Claim 13, line 2, appears to be repeated. It should be deleted.

### **Claim Rejections - 35 USC § 112**

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 1-7, 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 4 are rejected because there is an inconsistency between the language in the preamble and certain portions in the body of the claim, thereby making the scope of the claim unclear. Applicant is required to clarify what the claim is intended to be drawn to i.e, either the riser clamp alone or the combination of the riser clamp and the pipe, and the language of the claim be consistent with the intent. In formulating a rejection on the merits, the examiner is considering that the claim is drawn to the combination.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, 4, 6, 8, 10, 11 and 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 4,765,106 to Modrovich.

As to claims 1, 4, 8, 11 and 15, Modrovich shows a conscreed bracket as depicted in Fig. 2, which comprises two bars, each bar including a substantially hemicylindrical section, a first straight section on one end of the hemicylindrical section and a second straight section on the other end of the hemicylindrical section, each

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straight section having a through hole closely spaced equidistant from the hemicylindrical section; fasteners (22, 20, 24) extendable through the through holes to retain the two bars together with the first straight sections juxtaposed with the second straight sections, respectively; and at least one of the first straight section and the second straight section on each of the two bars having a length greater than the radius of the hemicylindrical section .

Modrovich is silent about whether the inside diameter of the hemicylindrical sections of the two bars is smaller than the specified outside diameter by not to exceed five percent with the first straight section juxtaposed with the second straight sections, respectively.

It would have been an obvious to one having an ordinary skill in the art at the time the invention was made to inherently provide the two hemicylindrical sections of the two bars having a diameter being smaller the diameter of the pipe by some percents in order to allow a small gap or space for the two bars to be gripped the pipe with an pressure holding enough without braking the pipe when the bolt is tightened until the straight bars are juxtaposed or mated to each other.

It would also have been an obvious matter of design choice to have provided the two hemicylindrical sections of the two bars having a diameter being smaller than the diameter of the pipe by not to exceed than five percents as claimed since Applicant has not disclosed of either the critical nature of as to why and why not exceed than five percent or any unexpected results arising therefrom, and that as such the diameter was arbitrary and therefore obvious to one skilled in the art. The critical nature could have

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also depended upon both the material and size to be made for both the pipe and hemicylindrical sections. These are considered be unlimited, therefore it would have been considered an obvious matter of design choice.

Modrovich shows the two straight section are substantially equal but does not show a long straight section on one end of the hemicylindrical section and a short straight section on the other end of the hemicylindrical section.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided at least one straight section of each hemicylindrical longer than the other to allow the whole length of the clamp to be longer to attach to other object such as on the floor or rest upon the surface if so desired.

As to claims 3, 6 and 10, Modrovich also shows fasteners each being provided with a bolt with a nut threadable thereon.

As to claims 13-14, the use of CPVC pipe is well known and to use such in the same intended purpose would have been obvious and well within the level of ordinary skill in the art at the time the invention was made thereby providing structure as claimed.

Claims 2, 5 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Modrovich in view of US Patent No. 4,733,471 to Rahe.

Unlike Modrovich, Rah teaches the inside edge of the hemicylindrical sections being radiused. It would have been obvious to provide a radiused inside edges as taught in Rahe for the purpose of providing the pipe to freely slide into the hemicylindrical sections as well as preventing gouging.

Claims 7 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Modrovich in view of US Patent No. 3,682,422 to Evans.

Unlike Modrovich, Evans teaches each the long straight sections each having an attachment hole closely spaced from the distal end thereof.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided an additional hole or an attachment hole on each the long straight section as taught by Evans into the modified long straight section of Modrovich in order to attach to other object such as on the floor or rest upon the surface if so desired.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

4,998,691 to Brown

4,878,696 to Walker

2,539,783 to Kirk, Jr.

5,098,047 to Plumey

4,676,087 to Combu

US D489,000 to Ellery

The above patents disclose various types of pipe clamping systems.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tan Le whose telephone number is (571) 272-6818.


The examiner can normally be reached on Mon. through Fri. from 9:00 AM-6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Braun can be reached on (571) 272-6815. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tan Le  
June 9, 2005.



ANITA KING  
PRIMARY EXAMINER